

HMRC - Verification is over for 04/06 Period & Earlier.

CTM continues to assist traders in their appeals to Tribunals, with growing success.



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Liban worked for HM Revenue & Customs for 20 years, predominately in VAT investigations, before being recruited as an indirect tax advisor at KPMG. He formed CTM in 2005 and now manages all Tribunal appeals.

Overleaf:

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Senior HMRC Officers Instruct Staff to End Verification

We have been informed in the last few days that Senior Customs Officers have instructed all VAT Officers, unless in exceptional circumstances, to end the verification by the end of March.

This instruction only applies to the April 2006 periods and earlier, but Officers have stated that other periods will also be completed, including some as late as August. However, we do not believe that any periods that fall later than August will be completed for several months, unless they involve a very small number of deals, or form part of a series of claims spanning earlier periods.

With decisions only trickling out, Officers have informed CTM that the bulk of decisions will be made over the coming few weeks. However, our sources state that the HMRC Policy Team may struggle to cope with the sudden influx of reports from VAT Officers.

HMRC are preparing themselves for continued high volume of work and one Officer, during a recent VAT visit, informed CTM that they are expecting to be as busy with appeals as they were with the verification itself.

In addition to our previous Newsletter, we have seen further reasons for Customs refusing VAT reclaims, as follows:

1. The trader was aware of the general fraud in the industry.
2. Before the outstanding periods, the trader had been specifically warned about fraud in their own supply chains.
3. A tax loss has been identified in all supply chains.
4. No IMEI or other serial numbers recorded.
5. Supply chains appear artificially contrived, in that a constant profit is made no matter what the product, quantity or supplier.
6. All deals are back to back and the stock is not split throughout the supply chain.
7. The products and quantities traded over a long period are identical, with no way of the trader knowing whether the same stock was being purchased again and again.
8. Due Diligence is insufficient in respect of the suppliers, customers and freight forwarders.

On a separate note, many companies have contacted CTM recently in relation to High Court decisions, Reverse Charging and other matters of concern.

Overleaf, we have put aside the legal jargon and have attempted to explain how certain other issues will affect traders.

However, if you require further clarity, please feel free to contact us at any time.



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Next Edition:

Tribunal Developments
Corporation Tax Update
Other Relevant Industry News

Update on Timescale for Decisions

Several Officers have informed us that decisions for many of our clients will now be made in April.

Officers are already commenting on a backlog in the Policy Team, but the bulk of decisions for earlier periods should be made in the next few weeks.

Reverse Charging

Sadly, this is an area where some traders are being a little optimistic. Many companies have contacted us in the belief that, when Reverse Charging is introduced on 1st June 2007, Customs will repay much of the outstanding VAT.

As disastrous as it will be for many companies, we are not of this opinion and believe Reverse Charging is a mechanism for ending fraud in the mobile phone and CPU industry, in the future. If it had been introduced on 1st October 2006, as planned, we do not believe the verification process would have been any quicker.

We also believe that Customs will continue with the extended verification on future transactions, for some time to come, and repayment traders should expect further, significant delays.

Further Tribunal Success

CTM has appealed to Tribunal, prior to a formal decision, for the following reasons:

- No UK VAT loss has been identified.
- Customs' Letters refer to joint and several liability only.
- Customs have stated that no decision will be made until all transactions have been verified. Tribunals have recently agreed with CTM that decisions must be made after each transaction has been verified.
- Customs have implied that the verification is over for all or part of a claim.

The above points have all been successfully argued by our Barristers in recent Tribunal hearings. It has the added benefit of getting traders into the Tribunal system before the bulk of decisions are made and before lengthy backlogs develop.

At these recent Tribunals, Customs have been directed to attend a half day hearing and the VAT Officer has been directed to give evidence. We do not believe Customs will allow proceedings to get this far and formal decisions are expected soon.

Companies should not appeal to the Tribunal early, simply to gain a strategic advantage, but we are happy to advise traders on this subject.

Contra Trading - Overall Scheme to Defraud

Recent reports seem to have complicated matters, but, in essence, it simply means that, even if there is no tax loss in your supply chain, Customs can still refuse your VAT. This will be argued in the Tribunals and Courts for some time to come.

However, traders should understand that, if they have conducted sufficient due diligence, it shouldn't matter whether fraud exists in the supply chain or not.

Corporation/PAYE Tax Update

Although disputed by some, HMRC have, for many months, suspended recovery action for Corporation and PAYE Tax, when requested to do so.

To further evidence this, we have spoken this week to the HMRC Complaints Department in relation to our many letters to Officers on this subject.

We were informed this week that, "for all CTM's clients, the action is suspended pending a decision from the Strategy Team". However, this will benefit all traders.